

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

CHAD WHITE,

ORDER
07-CR-134S

Defendant.

1. The Defendant, Chad White, is charged with having violated 18 U.S.C. § 2252A(a)(5)(B) in a one count indictment. (Docket No. 13). Defendant filed a motion, seeking to suppress statements and physical evidence. (Docket No. 22).

2. On December 12, 2008, the Honorable H. Kenneth Schroeder Jr., United States Magistrate Judge, filed a Report and Recommendation (Docket No. 42) recommending that Defendant's Motion to Suppress Statements and Physical Evidence (Docket No. 22) be denied.

3. On December 22, 2008, Defendant filed a Motion for an extension of time to file objections to Judge Schroeder's Report and Recommendation. (Docket No. 44). This Court granted Defendant's motion. (Docket No. 45). This Court set January 22, 2009 as the date for Defendant's objections. Id.

4. On January 23, 2009, one day after the deadline for objections, Defendant filed his objections to Judge Schroeder's Report and Recommendation. (Docket No. 46 & 47). Although Defendant failed to comply with the deadline, this Court will consider the objections.

5. Defendant only objects to Judge Schroeder's recommendation that the

motion to suppress physical evidence be denied. Defendant contends that the search warrant, issued by United States Magistrate Judge, the Honorable Hugh B. Scott, lacked probable cause. Although Defendant acknowledges that the exclusionary rule only applies to police misconduct, and not the errors of magistrate judges, Defendant argues that the exclusionary rule applies in this case because no officer could reasonably rely on this warrant.

6. This Court has thoroughly reviewed Judge Schroeder's Report and Recommendation, the search warrant, and the applicable law. Upon due consideration, this Court finds no legal or factual error in Judge Schroeder's Report and Recommendation and will accept it in its entirety.

IT HEREBY IS ORDERED, that this Court accepts Judge Schroeder's Report and Recommendation (Docket No. 42) in its entirety, including the authorities cited and the reasons given therein.

FURTHER, that Defendant's Motion to Suppress Physical Evidence and Statements (Docket No. 22) is DENIED.

FURTHER, that a status conference is scheduled for February 24, 2009, 2009 at 9:00 a.m.

SO ORDERED.

Dated: February 16, 2009
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge